Calendar No. 547

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-386

AMENDING TITLE 5, UNITED STATES CODE, TO AUTHORIZE THE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, TO PAY ADDITIONAL PREMIUM PAY TO AIR TRAFFIC CONTROLLERS AND CERTAIN OTHER EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION, AND FOR OTHER PURPOSES

MAY 11, 1982.—Ordered to be printed

Mr. STEVENS, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1912]

The Committee on Governmental Affairs, to which was referred the bill joint resolution (S. 1912) to amend title 5, United States Code, to authorize the Administrator, Federal Aviation Administration, to pay additional premium pay to air traffic controllers and certain other employees of the Federal Aviation Administration, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

AMENDMENTS

The amendments are as follows:

On page 2, line 16 strike "recruit or".

On page 3, line 17 strike "GS–10" and insert "GS–09".

On page 4, lines 20 and 21 strike the words "is occupying a position in the air traffic controller series" and insert "is an air traffic controller".

On page 7, line 11 strike "recruit or".

On page 7, line 18 insert "5" after "3".

On page 7, line 22 strike "sections 4 and 5" and insert "section 4".

EXPLANATION OF AMENDMENTS

The first committee amendment modifies the bill to remove employees solely in the personnel field from coverage under the dual compensation allowance. The legislation is intended to only allow reemployed military annuitants involved in air traffic control or actively training

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air traffic controllers to receive both their full salary and their full annuity.

The second amendment corrects a typographical error. The 5 percent premium was to be limited to those at the GS–9 level and higher to reflect the actual grade progression of the affected position series.

The third committee amendment clarifies the fact that only air traffic controllers and not flight station specialists are to be eligible for the 1.6-percent premium for remaining certified for air traffic control.

The fourth amendment is identical to the first but applies to reemployed civilian annuitants.

The fifth amendment corrects the effective date for removing those individuals eligible for these new premiums from the premium pay cap of a grade 15 step 10. This provision is to be effective retroactive to August 3, 1981 when most of the new premiums are payable.

The sixth amendment reflects the correction made by the previous amendment.

Purpose of the Legislation

The purpose of this legislation is to amend title 5, United States Code, to provide premium pay to air traffic controllers and other employees of the FAA who are involved in the handling of live air traffic.

Background and Statement

On June 22, 1981, after lengthy negotiations between the Department of Transportation/Federal Aviation Administration and the Professional Air Traffic Controllers Organization (PATCO), a tentative agreement was reached between the parties. Included in the agreement was Administration's commitment to propose legislation to the Congress for controller benefits totalling $40 million for fiscal year 1982.

Shortly after the agreement was accepted by the PATCO negotiating committee, PATCO's Executive Board rejected the tentative agreement and suggested that its membership do the same. Put to a membership vote, the tentative agreement was rejected by a margin of a 20-1 vote.

Following the rejection of the agreement on August 3, 1981, members of PATCO illegally went on strike against the Federal Government. President Reagan established a 48-hour grace period in which striking controllers could return to their jobs without consequence; otherwise, they would be terminated from their employment. Approximately 11,400 controllers did not return to work and were terminated from their employment.

Since the strike on August 3, the air traffic system has been operating at a significantly greater level than expected. In fact, data show that the system has been operating at about 75–80 percent of the pre-strike level for commercial air traffic. The operation of the air traffic system clearly reflects both the substantial preparations undertaken by the FAA before the strike, and the dedication of the controllers and staff personnel who remained on their jobs.

After the strike, the Department of Transportation/Federal Aviation Administration made a commitment to the working air traffic controllers that they would not be unfairly treated for honoring their

oaths of office and keeping the air traffic control system operating safely and efficiently. Accordingly, a draft of proposed legislation to increase salaries and benefits for air traffic controllers was submitted to the Congress on November 2, 1981. This legislation would provide an average annual pay increase of 6.6 percent to the working air traffic controllers which is equal to the amount supported by the Administration in the tentative agreement of June 1981. In addition to compensating controllers and other designated FAA employees for the responsibilities they assumed in operating and maintaining the air traffic system, the bill also provides the FAA with tools to use in the rebuilding of the air traffic control system.

The Committee believes that the premiums and special incentives for recruitment will enable the Federal Aviation Administration to expedite their efforts to restaff the air traffic control facilities at the appropriate levels to insure the continued safety of the nation's airways.

Letter From Secretary Drew Lewis

The Secretary of Transportation,
Washington, D.C., April 12, 1982.

Hon. Ted Stevens,
U.S. Senate,
Washington, D.C.

Dear Senator Stevens: I understand that the Governmental Affairs Committee is in the process of marking up Senate Bill 1912, the Administration's Air Traffic Control Revitalization Act. I consider the prompt enactment of this Act to be an important step in rebuilding the air traffic control system and compensating fairly key FAA operational employees for the significant contributions they make toward the safety and efficiency of our air traffic control system.

I asked the Committee to quickly report this legislation and work toward expeditious enactment by the Senate. We have made solid progress in rebuilding the system since this legislation was introduced last November, but the need for this legislation has not diminished in any manner. The performance of the FAA employees has been extraordinary and, as the system rebuilds, that performance will need to be continued. Prompt enactment of this legislation will represent, in a meaningful way, an appreciation of that performance and, at the same time, will provide the FAA with the necessary tool to accomplish the rebuilding of the air traffic control system.

I again urge prompt action and would be pleased to provide any information you or other members may require.

Sincerely,

Drew Lewis.

History of the Legislation

On November 19, 1981, provisions similar to those contained in S. 1912 were incorporated in H. J. Res. 357, a continuing resolution, and consequently, passed by the Congress on November 22. The continuing resolution was submitted to the President on November 23 and was vetoed the same day.

Following the veto action by the President, S. 1912 was introduced by Senator Ted Stevens on December 4, 1981. On that same day, the Subcommittee on Civil Service, Post Office and General Services of the Committee on Governmental Affairs held hearings on the proposed legislation. Testimony in support of the legislation was received from Darrell M. Trent, Deputy Secretary of Transportation, and J. Lynn Helms, Administrator of the Federal Aviation Administration.

Section-by-Section Analysis

The first section amends section 4109 of title 5, United States Code, to allow individuals being trained as air traffic controllers to be compensated at their basic hourly rate of pay for any extra time spent in a training status in excess of 40 hours a week. This provision particularly reflects a potential need for intensified training to rebuild the air traffic control system. Currently, title 5 prohibits any premium type payment for periods of training even though they may exceed 40 hours.

Section 2 would grant the Federal Aviation Administration short term authority to temporarily employ retired military annuitants in air traffic control work and related training functions, without requiring a reduction in annuity or salary. This authority is intended to provide an incentive to qualified military retirees to seek short-term employment with the FAA and to provide a ready source of qualified people as an interim measure while the air traffic control system is restaffed to the appropriate level. This authority would expire on December 31, 1984.

Section 3 amends chapter 55 of title 5, United States Code, to authorize the FAA to pay air traffic controllers and other designated classes of employees a differential of 5 percent of their basic rate of pay in recognition of the important operational and maintenance functions they perform in the air traffic control system. Employees who are potentially covered by this provision are air traffic controllers, flight service station specialists, electronic technicians, engineers and related personnel who maintain the air traffic control system; flight inspection crewmembers who monitor the performance of the air traffic control system from the air; and flight test pilots who are involved in the certification of aircraft and aircraft components. Only employees at or above specified grade levels could receive this differential since it is intended to recognize operational responsibilities which are not generally assumed by a developmental employee at lower grade levels. Coverage is intended to apply to supervisory personnel in field facilities as well as employees at the working level, so that an equitable pay structure is maintained. The FAA is granted the authority the authority to decide whether the premium pay should be paid to an individual.

Section 4, subsection (c), amends title 5, United States Code, to allow the FAA to pay a premium pay of 1.6 percent of basic pay to controllers and controller supervisors whose positions do not require them to maintain their operational and medical certifications to control traffic if they do obtain and maintain those qualifications. This provision is intended to provide a pool of additional controller talent to assist in meeting the capacity needs of the system in the short term and to

provide added flexibility in the future. Employees covered by this provision will have worked their way up through the controller ranks and now occupy positions in which the duties no longer require them to maintain their proficiency in controlling traffic.

Section 4, subsection (d), allows the FAA to pay a premium pay of 10 percent of basic pay to air traffic controllers who are called upon by the FAA to provide on-the-job training to other controllers who are engaged in controlling live air traffic. This premium will be paid for the period of time they perform that function. This premium recognizes that these controllers are assuming an extra responsibility on top of their other significant duties.

Subsection (e) of section 4 allows the FAA to compensate an air traffic controller or flight service station specialist if, during an 8-hour shift, his supervisor cannot release him from duty for a half-hour meal break because of an unusual workload condition which may arise during normal meal break times. The rate of compensation shall be 1½ times the rate of basic pay for the period of time of the meal break.

Subsection (f) of section 4 gives the FAA authority to regulate standards and the administration of this section.

Section 5 allows an employee who receives the operational responsibility differential of section 3 to exceed the limitation on aggregate pay (i.e., basic pay plus premium pay) which is established by section 5547 of title 5. Without relief from the limitation on premium pay, a number of individuals who are covered by this legislation will not be able to receive the pay called for in the legislation.

Section 6 clarifies the existing special retirement statute for air traffic controllers (5 U.S.C. 8339(e)) to assure that an air traffic controller must repay into the Civil Service Retirement Fund any withdrawn contributions before he may take advantage of the special early retirement provisions of a minimum annuity of 50 percent.

Section 7 amends section 8344 of title 5, United States Code, to grant the FAA short term authority to temporarily employ retired civil servants in air traffic control work without requiring a reduction in annuity or salary. This provision is identical to that of section 1 of this legislation which pertained to retired military. This provision applies only to those individuals who applied for retirement, or separation while being entitled to an annuity, before August 3, 1981. The authority under this section also terminates on December 31, 1984.

Section 8 establishes the effective dates for the individual sections of this legislation. Sections 1 and 4, allowing payment for hours of traininng over 40 in a week, payment of premium pay of 1.6 percent for individuals who remain certified in air traffic control, payment of premium pay of 10 percent for on-the-job training of trainee controllers in line air traffic control, and the payment of premium pay for working during the lunch break, are effective with the first day of the first applicable pay period after the enactment of this act.

Sections 2, 3, 5, and 7, allowing retired civilian and military to be reemployed and receive both full active pay and full annuities, payment of the 5 percent premiums for occupation responsibilities to air traffic controllers and certain other FAA employees, and allowing FAA employees who receive the premiums of Section 5546a of title 5, U.S.C., to receive more than the grade 15 step 10 pay rate cap currently in effect, will be retroactive to August 3, 1982.

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Evaluation of Regulatory Impact

Paragraph 11(b)(1) of Rule XXVI requires each report accompanying a bill to evaluate "the regulatory impact which would be incurred in carrying out the bill."

S. 1912 will not have any regulatory impact. It does not authorize any additional regulation of activities in the private sector, impose any new record keeping or reporting requirements on any segment of the public, or abolish any existing regulations.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 5, 1982.

Hon. William V. Roth, Jr.,
Chairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1912, a bill to amend title 5, United States Code, to authorize the Administrator, Federal Aviation Administration, to pay additional premium pay to air traffic controllers and certain other employees of the Federal Aviation Administration, and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

May 5, 1982.

1. Bill number: S. 1912.

2. Bill title: A bill to amend title 5, United States Code, to authorize the Administrator, Federal Aviation Administration, to pay additional premium pay to air traffic controllers and certain other employees of the Federal Aviation Administration, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs, April 12, 1982.

4. Bill purpose: S. 1912 permits the Administrator of the Federal Aviation Administration (FAA) to grant premium pay to several different classifications of FAA employees. Those individuals acting as air traffic controllers in centers, terminals, or flight service stations and classified not lower than a GS–9; those individuals classified not lower than a GS–9 or WG–10 and located in an airway facility sector; and those individuals assigned to a flight inspection crewmember station and classified not lower than a GS–11 whose duties directly involve the operation and maintenance of the air traffic control system; and flight test pilots classified not lower than GS–12 are all eligible for premium pay of 5 percent in addition to their basic pay. This provision applies retroactively to August 3, 1981.

FAA employees acting as air traffic controllers in centers and towers who maintain operational currency certification despite not being required to do so as a condition of employment are eligible to receive premium pay equal to 1.6 percent of their applicable rate of basic pay. This section is also retroactive to August 3, 1981.

Air traffic controllers providing on-the-job training to another air traffic controller while the latter is involved in the separation and control of air traffic shall be paid premium pay of 10 percent of their basic pay for each hour spent providing such training.

Air traffic controllers and flight station specialists required to work through their meal periods are eligible for premium pay equal to one-half of the applicable hourly rate of basic pay.

Individuals training to be air traffic controllers are to be paid their applicable hourly wages for training ordered in excess of 40 hours per week. Finally, retired military personnel are not to have their retired or retainer pay reduced while temporarily employed in the air traffic controller system.

S. 1912 also requires the FAA Administrator to prescribe standards for determining which employees are to be paid premium pay and to prescribe those rules necessary to implement this bill.

This bill also enables retired air traffic controllers who returned to service after August 3, 1981, to receive both active and retired pay. Under current law either the pay received by reemployed annuitants is reduced by the amount they received in retirement benefits or their retirement benefits are discontinued.

Except for those provisions of the bill retroactive to August 1981, all other sections would become effective immediately upon enactment.

5. Cost estimate:

	Millions
Estimated authorization level:	
Fiscal year:	
1982	$69
1983	79
1984	82
1985	79
1986	82
Estimated outlays:	
Fiscal year:	
1982	66
1983	79
1984	82
1985	79
1986	81

The costs of this bill fall within budget functions 400 and 050.

6. Basis of estimate: For the purpose of this estimate, CBO assumes an enactment date of July 1, 1982, and the annual average staffing levels as projected by the Federal Aviation Administration.

Based on information available from the FAA, CBO estimates that approximately 27,000 individuals would be eligible to receive the 5 percent premium pay differential in fiscal year 1982. Of that number, about 12,400 serve in air traffic centers and towers, 4,600 in flight service stations, 9,500 in airway facilities, and 300 in flight standards and inspections positions. In fiscal year 1986, the number of individuals

eligible for this differential increases to over 30,000, with the bulk of this growth in air traffic centers and towers. CBO estimates that if all these eligible individuals receive the 5 percent premium pay differential, the cost of the Government will be approximately $50 million in fiscal year 1982, rising to $70 million in fiscal year 1986.

Section 4 of S. 1912, relating to operational currency differentials, is estimated to affect just under 1,000 staff controllers, supervisors, assistant chiefs, and level I terminal chiefs. Were all these individuals to receive the 1.6 percent premium pay, the cost to the Government would be less than $1 million in each of the fiscal years 1982 through 1986.

Information from the FAA indicates that approximately 35 percent of a new controller's time is spent in on-the-job training. Paying a premium of 10 percent to controllers for each hour spent providing that training is estimated to cost about $1 million for the final quarter of fiscal year 1982, increasing to nearly $10 million for fiscal year 1986. The provision of the bill calling for extra pay for individuals required to work through their meal periods is expected to cost the Government less than $0.5 million in each of the fiscal years 1982 through 1986. The provision granting pay to controllers training in excess of 40 hours per week is estimated to cost the Government $1 million in the last quarter of fiscal year 1982, $3 million in fiscal year 1983, and $1 million for the first three quarters of fiscal year 1984. At that time, the FAA expects the air traffic system to have returned to its pre-strike operating level.

Approximately 650 retired military annuitants are now employed by the FAA in air traffic control work and related training functions, but section 2 of the bill will affect only approximately 200 retired officers. Not reducing their retired or retainer pay through December 1984 is estimated to cost the Federal Government $1.2 million in fiscal year 1982, $1.1 million in fiscal year 1983, and $0.3 million in fiscal year 1984. This provision is also retroactive to August 3, 1981.

In estimating the costs of sections 6 and 7, CBO assumes that existing reemployed annuitants originally retired voluntarily and therefore, under current law, had their pay, rather than their annuity, reduced. Enactment of S. 1912 would increase the pay of the estimated 286 reemployed civilian air traffic controllers by the full amount of their retirement benefit, currently estimated at $25,600 each. Further, this estimate includes a retroactive lump-sum payment in 1982 for service since August 3, 1981.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Steve Martin and Sherri Kaplan.
10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

ROLLCALL VOTES IN COMMITTEE

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the rollcall votes taken during Committee consideration of this legislation are as follows:

Final passage: Ordered reported, 10 yeas and 1 nay.

YEAS (10)	NAY (1)
Senator Danforth	Senator Levin
Senator Cohen	
Senator Mattingly	
Senator Durenberger	
Senator Mathias	
Senator Rudman	
Senator Stevens	
Senator Percy	
Senator Chiles	
Senator Roth	

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no changes is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

§ 4109. Expenses of training

(a) The head of an agency, under the regulations prescribed under section 4118(a)(8) of this title and from appropriations or other funds available to the agency, may—

(1) pay all or a part of the pay (except overtime, holiday, or night differential pay) of an employee of the agency selected and assigned for training under this chapter for the period of training; and

* * * * * * *

(c) Notwithstanding subsection (a)(1) of this section, the Administrator, Federal Aviation Administration, may pay an individual training to be an air traffic controller of such Administration, during the period of such training, at the applicable rate of basic pay for the hours of training officially ordered or approved in excess of 40 hours in an administrative workweek.

* * * * * * *

CHAPTER 55. PAY ADMINISTRATION

Subchapter I.—General Provisions

Section

5501. Disposition of money accruing from lapsed salaries or unused appropriations for salaries.
5502. Unauthorized office; prohibition on use of funds.
5503. Recess appointments.
5504. Biweekly pay periods; computation of pay.
5505. Monthly pay periods; computation of pay.
5506. Computation of extra pay based on standard or daylight saving time.
5507. Officer affidavit; condition to pay.
5508. Officer entitled to leave; effect on pay status.
5509. Appropriations.

Subchapter II.—Withholding Pay

5511. Withholding pay; employees removed for cause.
5512. Withholding pay; individuals in arrears.
5513. Withholding pay; credit disallowed or charge raised for payment.
5514. Installment deduction for indebtedness because of erroneous payment.
5515. Crediting amounts received for jury or witness service.
5516. Withholding District of Columbia income taxes.
5517. Withholding State income taxes.
5518. Deductions for State retirement systems; National Guard employees.
5519. Crediting amounts received for certain Reserve or National Guard Service.
5520. Withholding of city or county income or employment taxes.

Subchapter III.—Advancement, Allotment, and Assignment of Pay

5521. Definitions.
5522. Advance payments; rates; amounts recoverable.
5523. Duration of payments; rates; active service period.
5524. Review of accounts.
5525. Allotment and assignment of pay.
5526. Funds available on reimbursable basis.
5527. Regulations.

Subchapter IV.—Dual Pay and Dual Employment

5531. Definitions.
5532. Employment of retired members of the uniformed services; reduction in retired or retainer pay.
5533. Dual pay from more than one position; limitations; exceptions.
5534. Dual employment and pay of Reserves and National Guardsmen.
5534a. Dual employment and pay during terminal leave from uniformed services.
5535. Extra pay for details prohibited.
5536. Extra pay for extra services prohibited.
5537. Fees for jury and witness service.

Subchapter V.—Premium Pay

5541. Definitions.
5542. Overtime rates; computation.
5543. Compensatory time off.
5544. Wage-board overtime and Sunday rates; computation.
5545. Night, standby, irregular, and hazardous duty differential.
5546. Pay for Sunday and holiday work.
5546a. Differential pay for certain employees of the Federal Aviation Administration.
5547. Limitation on premium pay.
5548. Regulations.
5549. Effect on other statutes.
5550. Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities.
5550a. Compensatory time off for religious observances.

Subchapter VI.—Payment for Accumulated and Accrued Leave

5551. Lump-sum payment for accumulated and accrued leave on separation.
5552. Lump-sum payment for accumulated and accrued leave on entering active duty; election.

Subchapter VII.—Payments to Missing Employees

5561. Definitions.
5562. Pay and allowances; continuance while in a missing status; limitations.
5563. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.
5564. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.

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5565. Agency review.
5566. Agency determinations.
5567. Settlement of accounts.
5568. Income tax deferment.

Subchapter VIII.—Settlement of Accounts

5581. Definitions.
5582. Designation of beneficiary; order of precedence.
5583. Payment of money due; settlement of accounts.
5584. Claims for overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses.

Subchapter IX.—Severance Pay and Back Pay

[5591-5594. Repealed]
5595. Severance pay.

* * * * * * *

§ 5532. Employment of retired members of the uniformed services; reduction in retired or retainer pay

* * * * * * *

(f)(1) Notwithstanding any other provision of law, the retired or retainer pay of a former member of a uniformed service shall not be reduced while such former member is temporarily employed, during the period described in paragraph (2) or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train others to perform such duties.

(2) The provisions of paragraph (1) of this subsection shall be in effect for any period ending not later than December 31, 1984, during which the Administrator, Federal Aviation Administration, determines that there is an unusual shortage of air traffic controllers, performing duties under the administrative authority of such Administrator.

* * * * * * *

§ 5546a. Differential pay for certain employees of the Federal Aviation Administration

(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator') may pay premium pay at the rate of 5 percent of the applicable rate of basic pay to—

(1) any employee of the Federal Aviation Administration who is—

(A) occupying a position in the air traffic controller series classified not lower than GS–9 and located in an air traffic control center or terminal or in a flight service station;

(B) assigned to a position classified not lower than GS–9 or WG–10 located in an airway facilities sector; or

(C) assigned to a flight inspection crewmember position classified not lower than GS–11 located in a flight inspection field office,

the duties of whose position are determined by the Administrator to be directly involved in or responsible for the operation and maintenance of the air traffic control system; and

(2) any employee of the Federal Aviation Administration who is assigned to a flight test pilot position classified not lower than GS–12 located in a region or center, the duties of whose position are determined by the Administrator to be unusually taxing, physically or mentally, and to be critical to the advancement of aviation safety.

(b) The premium payable under any subsection of this section is in addition to basic pay and to premium pay payable under any other subsection of this section and any other provision of this subchapter.

(c) (1) The Administrator may pay premium pay to any employee of the Federal Aviation Administration who—

(A) is an air traffic controller located in an air traffic control center or terminal;

(B) is not required as a condition of employment to be certified by the Administrator as proficient and medically qualified to perform duties including the separation and control of air traffic; and

(C) is so certified.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 1.6 percent of the applicable rate of basic pay for so long as such employee is so certified.

(d) (1) The Administrator may pay premium pay to any air traffic controller of the Federal Aviation Administration who is assigned by the Administrator to provide on-the-job training to another air traffic controller while such other air traffic controller is directly involved in the separation and control of live air traffic.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 10 percent of the applicable hourly rate of basic pay times the number of hours and portion of an hour during which the air traffic controller of the Federal Aviation Administration provides on-the-job training.

(e) (1) The Administrator may pay premium pay to any air traffic controller or flight service station specialist of the Federal Aviation Administration who, while working a regularly scheduled 8-hour period of service, is required by his supervisor to work during the 4th through 6th hour of such period without a break of 30 minutes for a meal.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 percent of one-half of the applicable hourly rate of basic pay.

(f) (1) The Administrator shall prescribe standards for determining which air traffic controllers and other employees of the Federal Aviation Administration are to be paid premium pay under this section.

(2) The Administrator may prescribe such rules as he determines are necessary to carry out the provisions of this section.

§ 5547. Limitation on premium pay

An employee may be paid premium pay under sections 5542, 5545 (a)–(c), and 5546(a), (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS–15. *The first sentence of this section*

shall not apply to any employee of the Federal Aviation Administration who is paid premium pay under section 5546a of this title.

* * * * * * *

§ 8339. Computation of annuity

* * * * * * *

(e) The annuity of an employee retiring under section 8336(e) of this title is computed under subsection (a) of this section. That annuity may not be less than 50 percent of the average pay of the employee[.] *unless such employee has received, pursuant to section 8342 of this title, payment of the lump-sum credit attributable to deductions under section 8334(a) of this title during any period of employment as an air traffic controller and such employee has not deposited in the Fund the amount received, with interest, pursuant to section 8334(d) of this title.*

* * * * * * *

§ 8344. Annuities and pay on reemployment

(a) If an annuitant receiving annuity from the Fund, except—

(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity.

(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

(4) a Member receiving annuity from the Fund;

becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1)(i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339(a), (b), (d), (e), (h), (i), and (*o*) this title [5 USCS § 8339 (a), (b), (d), (e), (h), (i), (*o*)] as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the

increase payable under such subparagraph (A), the annuitant notifies the Office of Personnel Management in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.

(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(d) If a Member receiving annuity from the Fund becomes employed in an appointive or elective position, annuity payments are discontinued during the employment and resumed in the same amount on termination of the employment, except that—

(1) the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after separation as a Member in an appointive position in which he is subject to this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or

(B) the day after the date of separation from the appointive position; whichever is later;

(2) if the retired Member becomes employed after December 31, 1958, in an appointive position on an intermittent-service basis—

(A) his annuity continues during the employment and is not increased as a result of service performed during that employment;

(B) retirement deductions may not be withheld from his pay;

(C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title; and

(D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund;

(3) if the retired Member becomes employed after December 31, 1958, in an appointive position without pay on a full-time or substantially full-time basis, his annuity continues during the employment and is not increased as a result of service performed during the employment; and

(4) if the retired Member takes office as Member and gives notice as provided by section 8331(2) of this title, his service as Member during that period shall be credited in determining his right to and the amount of later annuity.

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(h)(1) Subject to paragraph (2) of this subsection, subsections (a), (b), (c), and (d) of this section shall not apply to any annuitant receiving an annuity from the Fund while such annuitant is employed, during any period described in section 5532(f)(2) of this title or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to recruit or train other individuals to perform such duties.

(2) Paragraph (1) of this subsection shall apply only in the case of any annuitant receiving an annuity from the Fund who, before August 3, 1981, applied for retirement or separated from the service while being entitled to an annuity under this chapter.

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